

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a right hip condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On July 11, 2018 appellant, then a 57-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained right hip osteoarthritis as a result of factors of his federal employment including standing, walking, lifting, twisting, and turning. He noted that he first became aware of his claimed condition and that it was caused or aggravated by his federal employment on May 9, 2018. Appellant did not stop work.

In a development letter dated July 17, 2018, OWCP advised appellant of the deficiencies of the claim. It advised him of the type of factual and medical evidence necessary to establish his claim and afforded him 30 days for the submission of additional evidence.

An x-ray of appellant's right hip obtained on May 9, 2018 demonstrated advancement of severe degenerative joint disease with bone-on-bone acetabular osteophytes.

In a note dated June 18, 2018, Dr. Chris Krouse, an osteopath Board-certified in orthopedic surgery, diagnosed severe degenerative change of the right hip. He recommended a total hip arthroplasty. Dr. Krouse noted that appellant had a long-standing history of extensive use of the right hip as a result of his federal employment, including factors such as ambulation, lifting of mail tubs, pushing/pulling, and bending/twisting. He opined within a reasonable degree of certainty that appellant's right hip degenerative change was beyond a reasonable doubt directly related to appellant's occupation and 35 years of federal service.

By decision dated October 9, 2018, OWCP denied appellant's claim as the medical evidence of record was insufficient to establish a causal relationship between the diagnosed conditions and factors of his federal employment.

OWCP continued to receive medical evidence. In a report dated September 5, 2013, Dr. John Swisher, an osteopath Board-certified in sports medicine, examined appellant for complaints of right hip and leg pain. He diagnosed right low back pain with right lower extremity pain resembling potential radiculopathy, right lateral hip pain, either secondary to radiculopathy or trochanteric syndrome, right proximal hamstring pain consistent with probable tendinosis, intermittent right knee pain with evidence of degenerative joint disease, and right groin/deep gluteal pain with femoral acetabular impingement. In a report dated September 25, 2013, Dr. Swisher diagnosed localized osteoarthritis of the pelvis, lumbosacral spondylosis, and trochanteric bursitis.

An x-ray of appellant's right hip obtained on September 5, 2013 demonstrated moderate narrowing involving the superior hip joint space with osteophytes off the superior and inferior aspects of the acetabulum and inferior aspect of the femoral head. A magnetic resonance imaging scan of the hip and pelvis obtained on September 6, 2013 demonstrated degenerative changes

including flattening of the inferior articular surface of the femoral head, osteophyte formation, and moderate narrowing medially.

On April 11, 2014 appellant underwent right hip arthroscopic labral repair, arthroscopic acetabuloplasty and arthroscopic femoral neck osteochondroplasty.

In a report dated September 17, 2014, Dr. Swisher examined appellant for complaints of progressively more painful right hip. He diagnosed right greater trochanteric syndrome and administered an injection.

In a report dated February 8, 2016, Dr. Krouse examined appellant for complaints of right hip pain. He diagnosed right hip pain, likely bursitis *versus* degenerative change. Dr. Krouse administered an injection.

On July 20, 2016 Dr. Krouse examined appellant for right hip and left knee pain. On physical examination of the right hip, he observed a positive grind test. Dr. Krouse diagnosed left knee and right hip degenerative joint disease. He administered an injection.

Dr. Krouse reported on May 9, 2018 that he had examined appellant for severe right hip pain, interfering with walking and sleeping. On physical examination, he observed a severely antalgic gait with positive grind testing and minimal internal/external rotation. Dr. Krouse diagnosed bone-on-bone degenerative joint disease of the right hip and recommended right hip arthroplasty.

In a note dated May 23, 2018, Dr. Krouse diagnosed right hip advanced degenerative change and opined that, after reviewing appellant's work duties, his diagnosis was beyond a reasonable doubt directly related to appellant's occupation of over 35 years. He explained that the amount of ambulation and positional changes appellant performed were the direct cause of aggravation and acceleration of cartilage wear of the right hip, leading to advanced osteoarthritis necessitating total hip arthroplasty.

OWCP received a note from Dr. Krouse dated July 5, 2018, which was substantially similar to his note of June 18, 2018.

In a letter dated January 16, 2019, Dr. Krouse diagnosed degenerative joint disease. He noted that appellant's overall degenerative decline, based on physical examination and radiographic findings, continued to progress despite conservative treatment. Dr. Krouse reviewed appellant's employment duties and opined that they had contributed to acceleration of appellant's degenerative joint disease.

On June 7, 2019 appellant requested reconsideration of the October 9, 2018 decision.

By decision dated August 27, 2019, OWCP denied modification.

In a letter dated January 29, 2020, Dr. Krouse stated that he had reviewed all medical documentation and agreed with his previous narrative.

On March 10, 2020 appellant requested reconsideration.

By decision dated May 5, 2020, OWCP denied modification.

In a letter dated October 28, 2020, Dr. Krouse explained that, as stated previously, it appeared that appellant's degenerative changes had been exacerbated by appellant's work duties, which included ambulating for long distances and on uneven surfaces, climbing stairs, carrying a weighted satchel, and entering/exiting his work vehicle several times per day while delivering mail for over 39 years. He opined that the duties of appellant's employment, including an excessive amount of walking, was likely a contributing factor to appellant's arthritis. Dr. Krouse explained that appellant was on his feet for upwards of 10 hours per day for five to six days per week and that appellant's duties would contribute to progressive degenerative changes to the hip joint, which over time would be viewed as degenerative arthritis. He opined that there was a causal relationship between appellant's duties and his medical findings on examination. Dr. Krouse further explained that working for 39 years and averaging many miles of walking in various terrains with repetitive movement, up and down stairs, on uneven ground, in and out of mail trucks, twisting, and changing directions would contribute to appellant's osteoarthritis findings. He opined with a reasonable medical certainty that appellant's repetitive walking and duties of appellant's federal employment over the past 39 years was a contributing factor to his medical findings of hip osteoarthritis. Dr. Krouse further opined that appellant's work duties had aggravated his diagnosed appellant's osteoarthritis, that it was beyond a reasonable doubt that years of repetitive movement and excessive loading/movements were well beyond a normal course of natural aging to the joints. He opined that it was his medical judgment that this process was a contributing factor to acceleration of hip osteoarthritis.

On December 29, 2020 appellant requested reconsideration.

By decision dated March 24, 2021, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

³ *Id.*

⁴ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁵

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁶ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.⁷

ANALYSIS

The Board finds that this case is not in posture for decision.

In a note dated May 23, 2018, Dr. Krouse diagnosed right hip advanced degenerative change and after reviewing appellant's work duties, opined that his diagnosis was directly related to appellant's occupation of over 35 years. He explained that the amount of ambulation and positional changes were the direct cause of aggravation and acceleration of cartilage wear of the right hip, leading to advanced osteoarthritis necessitating total hip arthroplasty.

In a letter dated October 28, 2020, Dr. Krouse explained that, as stated previously, it appeared that appellant's degenerative changes had been exacerbated by appellant's work duties, which included ambulating for long distances and on uneven surfaces, climbing stairs, carrying a weighted satchel, and entering/exiting his work vehicle several times per day while delivering mail for over 39 years. He opined that the duties of appellant's employment, including an excessive amount of walking, was likely a contributing factor to appellant's arthritis. Dr. Krouse explained that appellant was on his feet for upwards of 10 hours per day for five to six days per week and that appellant's duties would contribute to progressive degenerative changes to the hip joint, which over time would be viewed as degenerative arthritis. He opined that there was a causal relationship between appellant's duties and medical findings on examination. Dr. Krouse further explained that appellant's work for 39 years, averaging many miles of walking in various terrains with repetitive movement, up and down stairs, on uneven ground, in and out of mail trucks, twisting, and changing directions would contribute to appellant's osteoarthritis findings. He further opined that appellant's work duties had aggravated his diagnosed his osteoarthritis, as years of repetitive movement and excessive loading/movements were well beyond a normal course of natural aging to the joints. Dr. Krouse opined that it was his medical judgment that this process was a contributing factor to acceleration of hip osteoarthritis.

The Board finds that, taken together, Dr. Krouse's reports are sufficient to require further development of the medical evidence. Dr. Krouse provided a comprehensive understanding of the

⁵ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

medical record and case history. He provided explanation as to how appellant's work duties resulted in his diagnosed right hip condition.

The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt. Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.⁸ Dr. Krouse's reports, while insufficient to meet appellant's burden of proof to establish his claim, raise an uncontroverted inference between his diagnosed right hip condition and the accepted factors of appellant's federal employment. Accordingly, his medical opinion is sufficiently to require further development of appellant's claim.⁹

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁰ OWCP has an obligation to see that justice is done.¹¹

On remand, OWCP shall refer appellant to a physician in the appropriate field of medicine, along with the case record and a statement of accepted facts, for an examination and a rationalized medical opinion as to whether the accepted employment factors either caused or aggravated his diagnosed right hip conditions.¹² If the second opinion physician disagrees with the opinion of Dr. Krouse, he or she must provide a fully-rationalized explanation explaining why the accepted employment factors were insufficient to have caused or aggravated appellant's right hip condition. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

⁸ *B.H.*, Docket No. 20-0734 (issued November 13, 2020); *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *E.M.*, Docket No. 11-1106 (issued December 28, 2011); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

⁹ *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹⁰ *See id.* *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹¹ *See B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *C.C.*, Docket No. 19-1631 (issued February 12, 2020).

ORDER

IT IS HEREBY ORDERED THAT the March 24, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 4, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board